REMARKS

Claims 1-5, 7-15, 17-22 and 24-25 are pending in the application and stand rejected under 35 U.S.C. 103(a) as follows:

(i) Claims 1-5 and 7-11 stand rejected as being unpatentable over U.S. Patent No. 6,535,251 to Ribas-Corbera ("Ribas") in view of U.S. Patent No. 6,529,552 to Tsai and further in view of U.S. Patent No. 6,100,940 to Dieterich;

(ii) Claims 12, 13, 15-20, 22 and 24-25 stand rejected as being unpatentable over Ribas in view of Tsai and in further view of U.S. Patent No. 6,205,174 to Fert; and

(iii) Claims 14 and 21 stand rejected as being unpatentable over Ribas in view of Tsai and further in view of Fert and Dieterich.

Applicant respectfully submits that at the very least, claims 1, 12 and 19 are patentable over the cited combinations of references. At the very least, the combination of Ribas, Tsai and Dieterich does not teach or suggest *a channel rate controller for dynamically generating parameters for smoothing and bandwidth renegotiation corresponding to said number of bits generated from said encoder rate controller, wherein smoothing includes reducing a peak transmission rate to a sustainable transmission rate and smoothing a transmission rate to said sustainable transmission rate*, as recited in claim 1.

Moreover, the combination of Ribas, Tsai and Fert does not teach or suggest *dynamically negotiating with a network to generate traffic parameters that are used for dynamically adjusting bandwidth and for dynamically smoothing a transmission rate, wherein a negotiated peak transmission rate is reduced to a sustainable transmission rate, and said transmission rate is smoothed to said sustainable transmission rate*, as recited in claims 12 and 19

For each of the above-cited obviousness rejections, as noted on Page 2 of the Office

Action, Response to Arguments, the Examiner relies on Ribas (Col. 10, lines 57 ~ Col. 11, line 15) as teaching the "reduction of the peak transmission rate to a sustainable transmission rate". Examiner contends that the transmission rate "may be reduced to the average rate or increased to the max, which is the peak".

It is respectfully submitted that the Examiner's reliance on Ribas in this regard is *misplaced* and Examiner has ignored and failed to address the specific claim language in formulating his arguments. For example, there is absolutely no explanation in the Office Action regarding *how or where* Ribas discloses *a channel controller . . . reducing a peak transmission rate to a sustainable transmission rate* (as recited in claim 1), much less *a negotiated peak transmission rate is reduced to a sustainable transmission rate* (as recited in claims 12 and 19).

To begin, as previously indicated and not addressed by the Examiner, Ribas is directed to, and discloses methods for, adjusting the quantization steps and in particular, adjusting the minimum and maximum step sizes to achieve fined tuned performance (see Summary, Col. 2, lines 29-47). Examiner cites (with no supporting argument or explanation) Col. 10, lines 57 ~ Col. 11, line 15 of Ribas as disclosing the claimed process of a channel rate controller "reducing peak transmission rate to a sustainable rate" and "smoothing the transmission rate to the sustainable rate". However, the basis for the claim rejection in this regard is *fundamentally flawed* for various reasons.

To begin with, Ribas provides no details regarding the operation of the channel rate control unit (68) of FIG. 5, other than that the Channel rate control unit (68) may be provided as is known in the art. The cited section (Col. 10, lines 57 - Col. 11, line 15) is merely directed to methods performed by the encoder unit (42) (with constituent elements encoder 53), buffer (4) and encoder rate control unit (56)) Indeed, the cited section refers to FIGs. 13 and 14 regarding

methods for adjusting quantization by adjusting the parameters QT1, QT2 and Speed, wherein the Speed parameter is based on predetermined, fixed values of a target average bit rate R_{AVG} and a maximum or peak bit rate R_{MAX} (see, e.g., Ribas Col. 5, line 54; Col. 6, line 3; Col 10, lines 23-28; and Claims 13 and 14). Neither R_{AVG} nor R_{MAX} as taught by Ribas is the same, or related to, a sustainable rate as claimed.

Moreover, to the extent that the Examiner contends that that R_{MAX} is the peak transmission rate, it is not clear how Examiner can rely on Ribas discloses a smoothing process in which the peak transmission rate is reduced to a sustainable rate (see, Page 3 of Office Action) when Ribas explicitly teaches that the values of R_{AVG} and R_{MAX} are fixed (see, Col. 10, lines 27-28). The Examiner continues to ignore this issue despite having bee raised by Applicant numerous times heretofore. It is incumbent on the Examiner to explain how Ribas discloses reducing the peak transmission rate (as contended by Examiner) when Ribas explicitly teaches the opposite.

For at least the above reasons, the Office Action fails to establish a *prima facie* case of obviousness against claims 1, 12 and 19, and consequently, against any of the pending claimed invention. Accordingly, the rejections should be withdrawn.

Respectfully submitted,

Frank DeRosa
Reg. No. 43,584
Attorney for Applicant(s)

F. Chau & Associates, LLC
130 Woodbury Road.
Woodbury, New York 11797
TEL.: (516) 692-8888
FAX: (516) 692-88889